

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

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

Applicant's or agent's file reference		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/09583	International filing date (day/month/year) 28.08.2003	Priority date (day/month/year) 16.09.2002	
International Patent Classification (IPC) or both national classification and IPC A23L1/212			
Applicant UNILEVER N.V. et al			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 20.12.2003	Date of completion of this report 13.01.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Vuillamy, V Telephone No. +31 70 340-3504 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/09583**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1-20 as originally filed

Claims, Numbers

1-15 as originally filed

Drawings, Sheets

1-6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-6, 10, 12, 14, 15
	No: Claims	7-9, 11, 13
Inventive step (IS)	Yes: Claims	
	No: Claims	1-15
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/09583

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The following documents are referred to in this communication:

D1: US-A-2 118 391
D3: US-A-4 547 375

D2: US-A-4 931 321
D4: WO 99/65328 A

V.1/ The present application does not meet the requirements of Article 33 PCT because the subject-matter of claims 7-9, 11 and 13 is not new in the sense of Article 33(2) PCT.

V.1.1/ The subject-matter of claims 7-9, 11 and 13 is not new over D1 (cf. p.1, l.30-34, 15-45), disclosing a composition comprising a mixture of cooked and raw bananas, wheat flour and sugar. D1 further describes dried flakes produced from this composition.

V.1.2/ The subject-matter of claims 7, 11 and 13 is not new over D2 (cf. col.3, l.19-25; col.4, l.5-27; col.6, l.54-59) disclosing a composition comprising a mixture of cooked rhubarb, raw fruit (eg berries, banana, citrus fruits) and sugar.

V.1.3/ The subject-matter of claims 7-9, 11 and 13 is not new over D3 (cf. col.4, l.29-44; col.5, l.58 to col.6, l.40; examples) disclosing garlic or onion compositions with various degree of heat-inactivation. Such compositions cannot be differentiated from mixtures of heat-inactivated and non heat-inactivated ingredients.

V.2/ The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-6, 10, 12, 14 and 15 does not involve an inventive step in the sense of Article 33(3) PCT.

V.2.1/ The subject-matter of claim 1 is considered as obvious over the teaching of D3, disclosing the partial deactivation of allium or onion compositions, and their use to control the consistency of tomato products. The subject-matter of claim 1 mainly differs in that the partially deactivated ingredient is obtained by mixing a PME-deactivated and a non PME-deactivated ingredient.

The problem to be solved can be seen as the provision of an alternative method for controlling the consistency or thickening of a product.

The proposed solution is not considered as involving an inventive step: mixing a PME-deactivated and a non PME-deactivated ingredient to lower the level of active PME in the thickening composition is an obvious alternative to the partial denaturation of PME disclosed in D3.

V.2.2/ Claim 10 is directed to the use of a mixture of a PME-deactivated and a non PME-deactivated ingredient for reducing the perceived acidity of a product. The application as filed presents the problem to be solved as the provision of a composition for reducing the perceived acidity of a product.

This problem does not appear, however, to be solved on the whole scope of claim 10: some fruits or vegetables within the scope of claim 10 are acid (orange, rhubarb, berries), and can therefore not solve the above-mentioned problem. Claim 10 therefore does not involve an inventive step in the sense of Article 33(3) PCT.

V.2.3/ Dependent claims 2-6, 12, 14 and 15 do not appear to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step. Indeed, having regard to the claimed process and product, and the prior art known from D1-D4, it is considered that the person skilled in the art would regard the process and product of the present invention as an obvious alternative to those known. Therefore, these process and composition do not fulfill the requirements of Art.33(3) PCT.